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Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

F.Y.I. - Note from C/IOD  
Attached for your info re  
HR 5102.

STAT

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DO NOT use this form as a RECORD of approvals, concurrences, disposals,  
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FROM: (Name, org. symbol, Agency/Post)  ADD/EB5	Room No.—Bldg.
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5041-102

☆ U.S. GPO: 1986-491-247/40012

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

4 October 1988

NOTE FOR: DD/EBS

SUBJECT : HR 5102

Joe,

STAT I expect that [ ] note that the Senate will probably not pass  
STAT this bill before adjourning reached you after your attached question.  
Thought I would pass on to you, though, that [ ] indicated last week  
that there was some talk within the Senate of splitting the bill, e.g.  
passing on the debarment aspects but separating the COBRA-like provisions.  
Because employers are apparently not fond of COBRA, Senator Wilson was  
thinking of attaching a rider that would tie into FEGLI conversion, e.g. a  
portion of group life insurance (up to \$25,000) would be converted to  
long-term health care. The betting seemed to be the the rider wouldn't  
happen. We should know by 20 October when the Congress adjourns.

STAT [ ]  
C/IOD

STAT

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acting Republican leader or the leader himself who is also on the floor if the minority side has any matters that they intend to bring up which would be useful for the Members to be aware of next week on Thursday or Friday.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I must confess that I am not aware of it offhand. One of the gentlemen was inquiring whether or not when we would have all those votes on suspensions, whether or not earlier in that day there would be a roll call vote. I guess we cannot guarantee that will not happen. We have had several times on the issue with respect to the defense bill going to conference; I think the gentleman who has been most persistent in making that point may or may not be here. He has not consulted with the leader here. I am not altogether sure.

Mr. FOLEY. I might note on the last occasion when the House was in more or less technical session the gentleman from Pennsylvania forebore offering his amendment to discharge. I think a similar decision would probably be well received on both sides of the aisle.

Aside from that, does the distinguished Republican leader know of any other motions or actions originating on the minority side that might possibly draw a roll call vote.

Mr. MICHEL. On Thursday when we come back?

Mr. FOLEY. On Thursday or Friday?

Mr. MICHEL. Not to my knowledge. But if I find upon searching inquiry here that there are some of those things that might come off the wall, the gentleman knows me well enough that I would certainly give him as much advance notice as I possibly can.

Mr. FOLEY. I appreciate the gentleman's courtesy.

#### ADJOURNMENT FROM TUESDAY, SEPTEMBER 20, 1988, TO THURSDAY, SEPTEMBER 22, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, September 20, 1988, it adjourn to meet at 10 a.m. on Thursday, September 22, 1988.

The SPEAKER pro tempore (Mr. McHugh). Is there objection to the request of the gentleman from Washington?

There was no objection.

#### MAKING IN ORDER CALL OF THE CONSENT CALENDAR ON THURSDAY, SEPTEMBER 22, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the call of the

Consent Calendar be considered on Thursday, September 22, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

#### ADJOURNMENT TO TUESDAY, SEPTEMBER 20, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, September 20, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

#### FEDERAL EMPLOYEES HEALTH BENEFITS AMENDMENTS ACT OF 1988

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5102) to amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I will not object, and I rise in strong support of H.R. 5102, the Federal Employees' Health Benefits Act Amendments of 1988. I applaud the gentleman from New York and chairman of the Subcommittee on Compensation and Employee Benefits for moving this bill so quickly. H.R. 5102 incorporates H.R. 4829, my bill to extend health continuation benefits to Federal employees, as well as the gentleman's important provisions to address fraud and abuse by health care providers in the Federal Employee Health Benefits Program.

H.R. 4829, which has over 50 cosponsors, would allow Federal employees and their families to continue to receive health insurance benefits at the group rate for a limited period of time if they leave or lose their jobs. Employees who participate in the Federal Employee Health Benefits Program would have the option of continued group coverage, but would pay both the employer and the employee share of the costs.

The extended health coverage would also be available to surviving spouses, divorced spouses, and dependent children, who do not currently meet the eligibility standards established for continuous coverage under the Federal Employee Health Benefits Program. The former employees, whether they left voluntarily or were subject to a reduction in force, could continue to receive coverage for up to 18 months; the others could continue to receive coverage for up to 3 years.

This legislation provides the option to continue benefits in a manner consistent with the option provided by law to private sector employees under title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. While COBRA covered all state and local governments and private companies with at least 20 employees, it exempted the Federal Government. The Congressional Budget Office has indicated that the bill is cost neutral.

Because beneficiaries must pay both the employee and employer portion of their plan's premium, most Federal employees who move on to a job outside the Government will terminate their FEHBP coverage as soon as possible. However, this benefit will enable parents who leave jobs to care for children to continue their health coverage in the interim. In addition, many companies have waiting periods before their group health plans begin coverage for new employees. Federal employees should be provided with this important benefit which has been available to employees in the private sector since 1986.

H.R. 5102 also includes very important provisions to address fraud and abuse by health care providers in the Federal Employee Health Benefits Program. The bill would provide that a civil monetary penalty of up to \$10,000 could be levied against any health care provider who has been convicted of fraud or corruption under Federal or State law, or has been convicted for patient neglect or abuse, or other criminal offenses. A fraudulent provider could also be barred from participating in the Federal Employee Health Benefits Program for such criminal offenses. This bill is desperately needed to maintain the integrity of the FEHBP.

Mr. Speaker, this bill is an important, but noncontroversial measure, and I urge my colleagues to support this bill. I commend the distinguished chairman for his efforts and commitment to the continued improvement of the Federal Employee Health Benefits Program.

Mr. ACKERMAN. Mr. Speaker, will the gentlewoman yield to me?

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. ACKERMAN], the chairman of the subcommittee and the prime sponsor of this bill.

(Mr. ACKERMAN asked and was given permission to revise and extend his remarks.)

Mr. ACKERMAN. I thank the gentlewoman for yielding and for her excellent statement and for her great leadership in this area and support of this legislation.

Mr. Speaker, this legislation has been cleared with the majority and minority leadership.

H.R. 5102, the Federal Employees Health Benefits Amendments Act of

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1988, provides an important step in protecting enrollees in the Federal Employee's Health Benefits Program from unscrupulous health care providers while, at the same time, improving benefits under the program.

Title I of the act identifies a number of actions for which the Director of the Office of Personnel Management may bar certain health care providers from participating in FEHBP. This was designed to create safeguards for FEHBP enrollees so that they will receive health care that meets the highest standards of quality, as well as to ensure that program dollars are not wasted on inadequate, unnecessary, and potentially dangerous medical care. This provision is similar to the exclusion authority which already exists in the Medicare and Medicaid programs.

Title II of the act authorizes the temporary continuation of FEHBP coverage for separated workers, certain unmarried dependent children, and former spouses. This provision was designed to provide temporary protection to certain FEHBP enrollees who lose eligibility to participate in the program. This title is patterned after a bill introduced by Congresswoman MORELLA, and I want to commend her for providing important leadership in this area. This section of the act is similar to the continuation coverage which was afforded to private sector employees in the Consolidated Omnibus Budget Reconciliation Act of 1985.

The Post Office and Civil Service Subcommittee on Compensation and Employee Benefits has worked closely with the Office of Personnel Management in developing this measure. In addition, the Congressional Budget Office has reported that H.R. 5102 will be budget-neutral.

Mr. Speaker, the amendments I will offer are not intended to vitiate the amendments described in the committee report, but rather correct a printing error in the reported version of the bill.

I urge my colleagues to support H.R. 5102.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5102

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Health Benefits Amendments Act of 1988".

## TITLE I—PROVISIONS RELATING TO HEALTH CARE PROVIDERS

### SEC. 101. AUTHORITY TO IMPOSE DEBARMENT AND OTHER SANCTIONS.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8902 the following:

#### "§ 8902a. Debarment and other sanctions

"(a)(1) For the purpose of this section—

"(A) the term 'provider of health care services or supplies' or 'provider' means a physician, hospital, or other individual or entity which furnishes health care services or supplies;

"(B) the term 'individual covered under this chapter' or 'covered individual' means an employee, annuitant, family member, or former spouse covered by a health benefits plan described by section 8903 or 8903a; and

"(C) an individual or entity shall be considered to have been 'convicted' of a criminal offense if—

"(i) a judgment of conviction for such offense has been entered against the individual or entity by a Federal, State, or local court;

"(ii) there has been a finding of guilt against the individual or entity by a Federal, State, or local court with respect to such offense;

"(iii) a plea of guilty or nolo contendere by the individual or entity has been accepted by a Federal, State, or local court with respect to such offense; or

"(iv) in the case of an individual, the individual has entered a first offender or other program pursuant to which a judgment of conviction for such offense has been withheld;

without regard to the pendency or outcome of any appeal (other than a judgment of acquittal based on innocence) or request for relief on behalf of the individual or entity.

"(2)(A) Notwithstanding section 8902(j) or any other provision of this chapter, if, under subsection (b) or (c), a provider is barred from participating in the program under this chapter, no payment may be made by a carrier pursuant to any contract under this chapter (either to such provider or by reimbursement) for any service or supply furnished by such provider during the period of the debarment.

"(B) Each contract under this chapter shall contain such provisions as may be necessary to carry out subparagraph (A) and the other provisions of this section.

"(b) The Office of Personnel Management may bar the following providers of health care services or supplies from participating in the program under this chapter:

"(1) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to fraud, corruption, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care service or supply.

"(2) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care service or supply.

"(3) Any provider that has been convicted, under Federal or State law, in connection with the interference with or obstruction of an investigation or prosecution of a criminal offense described in paragraph (1) or (2).

"(4) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

"(5) Any provider—

"(A) whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating to the provider's professional competence, professional performance, or financial integrity; or

"(B) that surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional

competence, professional performance, or financial integrity.

"(c) Whenever the Office determines—

"(1) in connection with a claim presented under this chapter, that a provider of health care services or supplies—

"(A) has charged for health care services or supplies that the provider knows or should have known were not provided as claimed; or

"(B) has charged for health care services or supplies in an amount substantially in excess of such provider's customary charges for such services or supplies, or charged for health care services or supplies which are substantially in excess of the needs of the covered individual or which are of a quality that fails to meet professionally recognized standards for such services or supplies;

"(2) that a provider of health care services or supplies has knowingly made, or caused to be made, any false statement or misrepresentation of a material fact which is reflected in a claim presented under this chapter; or

"(3) that a provider of health care services or supplies has knowingly failed to provide any information required by a carrier or by the Office to determine whether a payment or reimbursement is payable under this chapter or the amount of any such payment or reimbursement;

the Office may, in addition to any other penalties that may be prescribed by law, and after consultation with the Attorney General, impose a civil monetary penalty of not more than \$10,000 for any item or service involved. In addition, such a provider shall be subject to an assessment of not more than twice the amount claimed for each such item or service. In addition, the Office may make a determination in the same proceeding to bar such provider from participating in the program under this chapter.

"(d) The Office—

"(1) may not initiate any debarment proceeding against a provider, based on such provider's having been convicted of a criminal offense, later than 6 years after the date on which such provider is so convicted; and

"(2) may not initiate any action relating to a civil penalty, assessment, or debarment under this section, in connection with any claim, later than 6 years after the date the claim is presented, as determined under regulations prescribed by the Office.

"(e) In making a determination relating to the appropriateness of imposing or the period of any debarment under this section, or the appropriateness of imposing or the amount of any civil penalty or assessment under this section, the Office shall take into account—

"(1) the nature of any claims involved and the circumstances under which they were presented;

"(2) the degree of culpability, history of prior offenses or improper conduct of the provider involved; and

"(3) such other matters as justice may require.

"(f)(1) The debarment of a provider under subsection (b) or (c) shall be effective at such time and upon such reasonable notice to such provider, and to carriers and covered individuals, as may be specified in regulations prescribed by the Office.

"(2)(A) Except as provided in subparagraph (B), a debarment shall be effective with respect to any health care services or supplies furnished by a provider on or after the effective date of such provider's debarment.

"(B) A debarment shall not apply with respect to inpatient institutional services furnished to an individual who was admitted to the institution before the date the debar-

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ment would otherwise become effective until the passage of 30 days after such date, unless the Office determines that the health or safety of the individual receiving those services warrants that a shorter period, or that no such period, be afforded.

"(3) Any notice referred to in paragraph (1) shall specify the date as of which debarment becomes effective and the minimum period of time for which such debarment is to remain effective.

"(4)(A) A provider barred from participating in the program under this chapter may, after the expiration of the minimum period of debarment referred to in paragraph (3), apply to the Office, in such manner as the Office may by regulation prescribe, for termination of the debarment.

"(B) The Office may—

"(i) terminate the debarment of a provider, pursuant to an application filed by such provider after the end of the minimum debarment period, if the Office determines, based on the conduct of the applicant, that—

"(I) there is no basis under subsection (b) or (c) for continuing the debarment; and

"(II) there are reasonable assurances that the types of actions which formed the basis for the original debarment have not recurred and will not recur; or

"(ii) notwithstanding any provision of subparagraph (A), terminate the debarment of a provider, pursuant to an application filed by such provider before the end of the minimum debarment period, if the Office determines that—

"(I) based on the conduct of the applicant, the requirements of subclauses (I) and (II) of clause (i) have been met; and

"(II) early termination under this clause is warranted based on the fact that the provider is the sole community provider or the sole source of essential specialized services in a community, or other similar circumstances.

"(5) The Office shall—

"(A) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of a provider barred from participation in the program under this chapter of the fact of the debarment, as well as the reasons for such debarment;

"(B) request that appropriate investigations be made and sanctions invoked in accordance with applicable law and policy; and

"(C) request that the State or local agency or authority keep the Office fully and currently informed with respect to any actions taken in response to the request.

"(6) The Office shall, upon written request and payment of a reasonable charge to defray the cost of complying with such request, furnish a current list of any providers barred from participating in the program under this chapter, including the minimum period of time remaining under the terms of each provider's debarment.

"(g)(1) The Office may not make a determination under subsection (b) or (c) adverse to a provider of health care services or supplies until such provider has been given written notice and an opportunity for a hearing on the record. A provider is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the provider in any such hearing.

"(2) Notwithstanding section 8912, any person adversely affected by a final decision under paragraph (1) may obtain review of such decision in the United States Court of Appeals for the Federal Circuit. A written petition requesting that the decision be modified or set aside must be filed within 60 days after the date on which such person is notified of such decision.

"(3) Matters that were raised or that could have been raised in a hearing under paragraph (1) or an appeal under paragraph (2) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment imposed under this section.

"(h) A civil action to recover civil monetary penalties or assessments under subsection (c) shall be brought by the Attorney General in the name of the United States, and may be brought in the United States district court for the district where the claim involved was presented or where the person subject to the penalty resides. Amounts recovered under this section shall be paid to the Office for deposit into the Employees Health Benefits Fund.

"(i) The Office shall prescribe regulations under which, with respect to services or supplies furnished by a debarred provider to a covered individual during the period of such provider's debarment, payment or reimbursement under this chapter may be made, notwithstanding the fact of such debarment, if such individual did not know or could not reasonably be expected to have known of the debarment. In any such instance, the carrier involved shall take appropriate measures to ensure that the individual is informed of the debarment and the minimum period of time remaining under the terms of the debarment."

(b) CHAPTER ANALYSIS.—The analysis for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8902 the following:

"8902a. Debarment and other sanctions."

SEC. 102. APPLICABILITY; PRIOR CONDUCT.

(a) APPLICABILITY.—The amendments made by this title shall be effective with respect to any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after the date of the enactment of this Act.

(b) PRIOR CONDUCT NOT TO BE CONSIDERED.—In carrying out section 8902a of title 5, United States Code, as added by this title, no debarment, civil monetary penalty, or assessment may be imposed under such section based on any criminal or other conduct occurring before the beginning of the first calendar year which begins after the date of the enactment of this Act.

## TITLE II—PROVISIONS RELATING TO TEMPORARY CONTINUATION OF COVERAGE FOR CERTAIN INDIVIDUALS

SEC. 201. AUTHORITY TO CONTINUE COVERAGE.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by inserting after section 8905 the following:

"§ 8905a. Continued coverage

"(a) Any individual described in paragraph (1) or (2) of subsection (b) may elect to continue coverage under this chapter in accordance with the provisions of this section.

"(b) This section applies with respect to—

"(1) any employee who—

"(A) is separated from service, whether voluntarily or involuntarily, except that if the separation is involuntary, this section shall not apply if the separation is for gross misconduct (as defined under regulations which the Office of Personnel Management shall prescribe); and

"(B) would not otherwise be eligible for any benefits under this chapter (determined without regard to any temporary extension of coverage and without regard to any benefits available under a nongroup contract); and

"(2) any individual who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child under this chapter;

"(B) on the day before so ceasing to meet the requirements referred to in subparagraph (A), was covered under a health benefits plan under this chapter as a member of the family of an employee or annuitant; and

"(C) would not otherwise be eligible for any benefits under this chapter (determined without regard to any temporary extension of coverage and without regard to any benefits available under a nongroup contract).

"(c)(1) The Office shall prescribe regulations and provide for the inclusion of appropriate terms in contracts with carriers to provide that—

"(A) with respect to an employee who becomes (or will become) eligible for continued coverage under this section as a result of separation from service, the separating agency shall, before the end of the 30-day period beginning on the date as of which coverage (including any temporary extensions of coverage) would otherwise end, notify the individual of such individual's rights under this section; and

"(B) with respect to a child of an employee or annuitant who becomes eligible for continued coverage under this section as a result of ceasing to meet the requirements for being considered a member of the employee's or annuitant's family—

"(i) the employee or annuitant may provide written notice of the child's change in status (complete with the child's name, address, and such other information as the Office may by regulation require) to the carrier of such employee's or annuitant's plan; and

"(ii) if the carrier receives the notice referred to in clause (i) within 60 days after the date as of which the child involved first ceases to meet the requirements involved, the carrier must, within 14 days after receiving such notice, notify the child of such child's rights under this section.

"(2) In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Office by regulation prescribes) must be made—

"(A) in the case of an individual seeking continued coverage based on a separation from service, before the end of the 60-day period beginning on the later of—

"(i) the effective date of the separation; or

"(ii) the date the separated individual receives the notice required under paragraph (1)(A); or

"(B) in the case of an individual seeking continued coverage based on a change in circumstances making such individual ineligible for coverage as an unmarried dependent child, before the end of the 60-day period beginning on the later of—

"(i) the date as of which such individual first ceases to meet the requirements for being considered an unmarried dependent child; or

"(ii) the date such individual receives notice under paragraph (1)(B)(ii);

except that if a parent fails to provide the notice required under paragraph (1)(B)(i) in timely fashion, the 60-day period under this subparagraph shall be based on the date under clause (i), irrespective of whether or not any notice under paragraph (1)(B)(ii) is provided.

"(d)(1)(A) An individual receiving continued coverage under this section shall be required to pay currently into the Employees Health Benefits Fund, under arrangements satisfactory to the Office, an amount equal to the sum of—

"(i) the employee and agency contributions which would be required in the case of

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an employee enrolled in the same health benefits plan and level of benefits; and

"(ii) an amount, determined under regulations prescribed by the Office, necessary for administrative expenses, but not to exceed 2 percent of the total amount under subparagraph (A).

"(B) Payments under this section to the Fund shall—

"(i) in the case of an individual whose continued coverage is based on such individual's separation, be made through the agency which last employed such individual; or

"(ii) in the case of an individual whose continued coverage is based on a change in circumstances referred to in subsection (c)(2)(B), be made through—

"(i) the Office, if, at the time coverage would (but for this section) otherwise have been discontinued, the individual was covered as the child of an annuitant; or

"(ii) if, at the time referred to in subclause (i), the individual was covered as the child of an employee, the employee's employing agency as of such time.

"(2) If an individual elects to continue coverage under this section before the end of the applicable period under subsection (c)(2), but after such individual's coverage under this chapter (including any temporary extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(3)(A) An individual making an election under subsection (c)(2)(B) may, at such individual's option, elect coverage either as an individual or, if appropriate, for self and family.

"(B) For the purpose of this paragraph, members of an individual's family shall be determined in the same way as would apply under this chapter in the case of an enrolled employee.

"(C) Nothing in this paragraph shall be considered to limit an individual making an election under subsection (c)(2)(A) to coverage for self alone.

"(e)(1) Continued coverage under this section may not extend beyond—

"(A) in the case of an individual whose continued coverage is based on separation from service, the date which is 18 months after the effective date of the separation; or

"(B) in the case of an individual whose continued coverage is based on ceasing to meet the requirements for being considered an unmarried dependent child, the date which is 36 months after the date on which the individual first ceases to meet those requirements, subject to paragraph (2).

"(2) In the case of an individual who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child;

"(B) as of the day before so ceasing to meet the requirements referred to in subparagraph (A), was covered as the child of a former employee receiving continued coverage under this section based on the former employee's separation from service; and

"(C) so ceases to meet the requirements referred to in subparagraph (A) before the end of the 18-month period beginning on the date of the former employee's separation from service,

extended coverage under this section may not extend beyond the date which is 36 months after the separation date referred to in subparagraph (C).

"(f) The Office shall prescribe regulations under which continued coverage under this section shall be afforded in the case of an individual seeking to continue coverage following coverage under an employee organi-

zation plan described by section 8903(3) or section 8903a of this title.

"(g)(1) The Office shall prescribe regulations under which, in addition to any individual otherwise eligible for continued coverage under this section, and to the extent practicable, continued coverage may also, upon appropriate written application, be afforded under this section—

"(A) to any individual who—

"(i) if subparagraphs (A) and (C) of paragraph (10) of section 8901 were disregarded, would be eligible to be considered a former spouse within the meaning of such paragraph; but

"(ii) would not, but for this subsection, be eligible to be so considered; and

"(B) to any individual whose coverage as a family member would otherwise terminate as a result of a legal separation.

"(2) The terms and conditions for coverage under the regulations shall include—

"(A) consistent with subsection (c), any necessary notification provisions, and provisions under which an election period of at least 60 days' duration is afforded;

"(B) terms and conditions identical to those under subsections (d) and (f), except that contributions to the Employees Health Benefits Fund shall be made through such agency as the Office by regulation prescribes;

"(C) provisions relating to the termination of continued coverage, except that continued coverage under this section may not (subject to paragraph (3)) extend beyond the date which is 36 months after the date on which the qualifying event under this subsection (the date of divorce, annulment, or legal separation, as the case may be) occurs; and

"(D) provisions designed to ensure that any coverage pursuant to this subsection does not adversely affect any eligibility for coverage which the individual involved might otherwise have under this chapter (including as a result of any change in personal circumstances) if this subsection had not been enacted.

"(3) In the case of an individual—

"(A) who becomes eligible for continued coverage under this subsection based on a divorce, annulment, or legal separation from a person who, as of the day before the date of the divorce, annulment, or legal separation (as the case may be) was receiving continued coverage under this section for self and family based on such person's separation from service; and

"(B) whose divorce, annulment, or legal separation (as the case may be) occurs before the end of the 18-month period beginning on the date of the separation from service referred to in subparagraph (A),

extended coverage under this section may not extend beyond the date which is 36 months after the date of the separation from service, as referred to in subparagraph (A)."

(2) TABLE OF SECTIONS.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8905 the following:

"8905a. Continued coverage."

(b) OPTION TO CONVERT TO A NONGROUP CONTRACT AFTER CONTINUED COVERAGE ENDS.—Section 8902(g) of title 5, United States Code, is amended by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(c) CHANGE OF COVERAGE BASED ON CHANGE IN FAMILY STATUS.—Section 8905(e) of title 5, United States Code, is amended by striking "or former spouse" and inserting

"former spouse, or person having continued coverage under section 8905a of this title".

(d) OPEN SEASON.—Section 8905(f) of title 5, United States Code, is amended—

(1) by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title"; and

(2) by adding at the end the following:

"(3)(A) In addition to any informational requirements otherwise applicable under this chapter, the regulations shall include provisions to ensure that each employee eligible to enroll in a health benefits plan under this chapter (whether actually enrolled or not) is notified in writing as to the rights afforded under section 8905a of this title.

"(B) Notification under this paragraph shall be provided by employing agencies at an appropriate point in time before each period under paragraph (1) so that employees may be aware of their rights under section 8905a of this title when making enrollment decisions during such period."

## SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Sections 8902(j), 8902(k)(1), and 8909(d) of title 5, United States Code, are amended by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(b) Section 8903(1) of title 5, United States Code, is amended—

(1) by striking "or former spouses," and inserting "former spouses, or persons having continued coverage under section 8905a of this title"; and

(2) by striking "or former spouse," and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(c) Section 8905(d) of title 5, United States Code, is amended to read as follows:

"(d) If an employee, annuitant, or other individual eligible to enroll in a health benefits plan under this chapter has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family."

## SEC. 203. APPLICABILITY.

(a) IN GENERAL.—The amendments made by this title shall apply with respect to—

(1) any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after the end of the 9-month period beginning on the date of the enactment of this Act; and

(2) any qualifying event occurring on or after the first day of the first calendar year beginning after the end of the 9-month period referred to in paragraph (1).

(b) DEFINITION.—For the purpose of this section, the term "qualifying event" means any of the following events:

(1) A separation from Government service.

(2) A divorce, annulment, or legal separation.

(3) Any change in circumstances which causes an individual to become ineligible to be considered an unmarried dependent child under chapter 89 of such title.

## AMENDMENTS OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent to offer en bloc amendments in lieu of the committee amendments printed in the bill, and further, that such amendments be considered as read and printed in the RECORD.



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## CONGRESSIONAL RECORD — HOUSE

September 16, 1988

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. ACKERMAN: Page 14, strike lines 23 and 24 and insert the following:

"(ation require)—

"(I) to the employee's employing agency; or

"(II) in the case of an annuitant, to the Office; and".

Page 15, strike lines 1 and 2 and insert the following:

"(II) if the notice referred to in clause (I) is received within 60 days after the date as of".

Page 15, line 4, strike "carrier" and insert "employing agency or the Office (as the case may be)".

Page 16, line 22, strike "subparagraph (A)." and insert "clause (I).".

Page 19, strike lines 10 through 14.

Page 19, line 15, strike "(g)(1)" and insert "(f)(1)".

Page 20, line 12, strike "subsections (d) and (f)," and insert "subsection (d).".

The SPEAKER pro tempore. The question is on the amendment en bloc by the gentleman from New York [Mr. ACKERMAN].

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### MAKING IN ORDER CALL OF THE PRIVATE CALENDAR ON THURSDAY, SEPTEMBER 22, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be considered on Thursday, September 22, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

#### PROVIDING FOR DISPLAY OF NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG IN THE CAPITAL ROTUNDA

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 9) to provide for the display of the National League of Families POW/MIA flag in the Capitol rotunda, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. FRENZEL. Mr. speaker, reserving the right to object, I yield to the distinguished gentleman from North Carolina for purposes of a description of the bill.

Mr. ROSE. Mr. Speaker, this resolution, Senate Concurrent Resolution 9, is identical to a resolution that was in-

troduced in the House by one of our colleagues along with Mr. SOLARZ. The resolution expresses the sentiment of the Congress that this Nation not forget the sacrifices of our country's servicemen who are missing in action or who have suffered as prisoners of war. House Concurrent Resolution 28 introduced, as I said, by the gentleman from New York [Mr. SOLARZ], expresses the House's strong support for this resolution.

The families of these Americans have joined together as the National League of Families of Prisoners of War and those missing in action to further the awareness of POW/MIA issues.

The resolution authorizes the National League of Families to display a flag in the Capitol rotunda until there is a satisfactory accounting of all Vietnam POW's and MIA's.

Mr. Speaker, the Nation owes these brave and heroic service men and women no less than a continuing awareness of their fate. The Task Force on POW's and MIA's and Representative LAGOMARSINO continue to examine ways to raise the consciousness of the Nation to this issue and they all deserve great credit for their endeavors.

Mr. Speaker, I appreciate the great interest that the House has shown in this. I think the placing of a flag in the Capitol rotunda today will be a very fitting and proper reminder to all Americans that we in the Congress and we as a nation have not forgotten the POW's and MIA's and will not forget them as long as they remain missing and unaccounted for.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority agrees with the description and is supportive of the bill.

Further reserving the right to object, I yield to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding.

May I first compliment and commend the leadership on the Democratic side for orchestrating the discharging of the committee of this concurrent resolution, particularly today, because there were those of us who were, earlier in the day, very privileged to participate in a ceremony on the west front of the Capitol in honor of the recognition day that we have so designated by this Congress.

In attendance, of course, were representatives of all the military forces, the Navy Band, the distinguished Members of both House and Senate, both political parties, some of whom have served in wars past, obviously, like the gentleman from Illinois, very conscious of the anguish and agony of those families still wanting to have some accounting for those who have been listed as missing in action or prisoners of war in all our wars and, more particularly, Vietnam, where it has been such a tragic occurrence.

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Mr. Speaker, I certainly support the thrust of this resolution to keep us right here in the Nation's Capital, mindful of the fact that we want to never forget, that we want to continue to persevere in getting as good an accounting as we possibly can of every last one of our soldiers, sailors, marines, and airmen who still are listed as missing in action.

Mr. Speaker, I thank the gentleman very much for yielding.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from New York [Mr. SOLARZ] who I understand has chaired a significant task force on this matter.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman very much for yielding.

As the original sponsor of this legislation in the House, I simply want to express my profound appreciation to those on both sides of the aisle, and particularly my good friend, the gentleman from North Carolina [Mr. ROSE], chairman of the subcommittee, the very distinguished minority leader, and my friend, the gentleman from Minnesota [Mr. FRENZEL] and others who have made it possible to bring this legislation up on a timely fashion this afternoon.

With this resolution, we gather to say to those missing men with one voice "you are not forgotten."

By passing this resolution, the unity on this issue, which includes Democrats and Republicans alike, will be on display every day for all to see, because between Democrats and Republicans there is no difference in patriotism and appreciation of those brave men and women who have served so nobly in our Armed Forces.

The display of this flag also honors the courage and unwavering commitment of those families still seeking word of their loved ones. They remind us daily that for some, the war in Vietnam is not over, that until our men are accounted for, the wounds of that conflict will continue to linger.

I think it is entirely fitting that we should fly the POW/MIA flag which has been developed by the National League of Families in the rotunda of the Capitol. It now flies on major Veterans holidays over the White House, over the State Department, over the Pentagon and in over 24 State capitals. It surely belongs in the rotunda of our own Capitol as well.

It is a symbolic reminder that we have not forgotten those men who are still missing in action over a decade after the end of the war in Indochina, and it will enable us to serve notice to the Vietnamese that so long as we have not received a full accounting of the fate of these men it will be difficult to actually formalize our relationship with them.

Congress, by passing this resolution, will be visibly demonstrating our determination and commitment, as rep-